

UnitedHealth Group Incorporated

**Report of the Special Litigation Committee
December 6, 2007**

**Hon. Kathleen A. Blatz
Hon. Edward C. Stringer**

EXHIBIT

1

**Affidavit of
Kathleen A. Blatz**

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I. BACKGROUND

A. UnitedHealth Group Incorporated

This Report of the Special Litigation Committee (SLC) of the Board of Directors of UnitedHealth Group Incorporated (UHG or the Company)¹ addresses shareholder derivative claims brought on behalf of UHG against certain current and former officers and directors of the Company. UHG is one of the nation's largest managed health care organizations.² UHG serves approximately 70 million Americans via its family of businesses in the health and well-being industry. The Company employs approximately 58,000 people and operates through divisions in the following business segments:

- Uniprise, which provides health care and well-being services nationwide to large national employers, health care organizations and individual consumers.
- Health Care Services, comprised of the United Healthcare, Americhoice and Ovations businesses, which provide an array of health benefit plans and services to the public sector, small to mid-

¹ These references also include any predecessors of the Company.

² Factual information has been gleaned from SLC interviews, interviews by others, the Company's SEC filings, documents obtained from the Company and others, various publications and websites, and sources at the Company.

sized employers and individuals, including individuals over fifty years of age and their families.

- OptumHealth (formerly known as Specialized Care Services), which provides specialty health, wellness and ancillary benefits, services and resources to specific customer markets nationwide.
- Ingenix, which provides database and data management services, software products, publications, outsourced services and pharmaceutical development and consulting services.

Organized under the laws of Minnesota, UHG became a publicly traded company in 1984. Its shares are traded on the New York Stock Exchange under the symbol UNH. In 2007, UHG was ranked twenty-first on *Fortune* magazine's list of the 500 largest U.S. corporations based on 2006 revenues.

B. Events Leading to the Shareholder Derivative Litigation and Appointment of the Special Litigation Committee

1. The March 18, 2006 Wall Street Journal Article

On March 18, 2006, the *Wall Street Journal* published a front-page article entitled *The Perfect Payday* (the *WSJ* article).³ The authors referred to what they characterized as the “unusually propitious” timing of stock option grants to executives at several publicly traded companies, including UHG. The *WSJ* article also reported that the United States Securities and Exchange Commission (SEC) was examining the timing of several companies' options grants in order to

³ C. Forelle & J. Bandler, *The Perfect Payday*, Wall St. J., March 18, 2006, at 1.

determine whether they had been “backdated,” *i.e.*, whether grant dates had been selected with the benefit of hindsight, thereby providing option recipients with lower exercise prices.

The *WSJ* article referenced several stock option grants that the Company made to its Chief Executive Officer, Dr. William W. McGuire, dating back to 1994. Some of the grants were purportedly made on days when the Company’s stock hit its low price for the year. The *WSJ* article singled out one very large grant made to Dr. McGuire with a grant date of October 13, 1999, as well as grants made to him in 1997 and 2000, all of which were made when the stock price was at the low of the respective year. The article also noted that a grant made in 2001 was “near the bottom dip of a sharp stock dip.” The *WSJ* article stated that “the odds of such a favorable pattern occurring by chance would be one in 200 million or greater.”

2. The SEC’s Informal Inquiry and Other Investigations

Shortly after the *WSJ* article was published, the Enforcement Division of the SEC notified the Company that the SEC had commenced an informal inquiry into the Company’s stock option granting practices. The United States Attorney’s Office for the Southern District of New York and the Internal Revenue Service subsequently informed the Company that they, too, had opened investigations into the Company’s stock option granting practices. In addition, the Company was asked to provide documents and information to committees of the United States Congress.

3. Appointment of the Committee of Independent Directors

On April 4, 2006, in response to the SEC's notification, the UHG Board of Directors appointed a Committee of Independent Directors (Independent Committee) to conduct a review of the Company's stock option granting practices from 1994 through 2006. The Independent Committee was composed of Messrs. James A. Johnson (Chair), Richard T. Burke, and Douglas W. Leatherdale. In turn, the Independent Committee engaged the law firm of Wilmer Cutler Pickering Hale and Dorr LLP (WilmerHale) as counsel to assist in its review.

4. The Filing of Derivative Lawsuits

a. Shareholder Derivative Actions in Federal District Court

On March 29, 2006, UHG shareholder Jan Brandin commenced a shareholder derivative lawsuit on behalf of the Company against various current and former officers and/or directors of UHG in the United States District Court for the District of Minnesota. The *Brandin* lawsuit alleged that defendants had breached their fiduciary duties to the Company and asserted various other claims. Other shareholders subsequently filed similar derivative actions on behalf of the Company in federal court.⁴ Beginning at approximately the same time, other UHG shareholders filed putative class action lawsuits alleging violations of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

⁴ Among the Court-appointed Lead Plaintiffs were the following public pension funds, all of which hold stock in the Company: The St. Paul Teachers' Retirement Fund Association; The Public Employees' Retirement System of Mississippi; The Fire & Police Pension Association of Colorado; The Jacksonville Police & Fire Pension Fund; The Louisiana Municipal Employees'

On July 7, 2006, the *Brandin* lawsuit was consolidated with seven other derivative actions under the caption *In re UnitedHealth Group Inc. Shareholder Derivative Litig.*, Master File No. 06-1216 JMR/FLN (Federal Derivative Actions).⁵ The Federal Derivative Actions are pending before the Honorable James M. Rosenbaum in the United States District Court for the District of Minnesota.

On September 21, 2006, plaintiffs in the Federal Derivative Actions filed Lead Plaintiffs' Amended and Consolidated Verified Derivative and Class Action Complaint (Federal Complaint), which asserted various claims against twenty current and former UHG directors and/or officers arising out of UHG's grant of stock options during the period from "at least 1996 through 2002." Judge Rosenbaum granted a partial stay in the Federal Derivative Actions, which expired on July 30, 2007.

b. Shareholder Derivative Actions in Minnesota State District Court

On April 24, 2006, UHG shareholder Natalie Gordon filed a shareholder derivative lawsuit against various current and former officers and/or directors of UHG in the Hennepin County District Court alleging that defendants had breached their fiduciary duties to the Company and asserting various other

Retirement System; The Louisiana Sheriffs' Pension & Relief Fund; The Public Employees' Retirement System of Ohio; The State Teachers' Retirement System of Ohio; and The Connecticut Retirement Plans and Trust Funds.

⁵ The SLC expresses no opinion as to the class action securities claims asserted in various lawsuits which have been consolidated in another action before Judge Rosenbaum, *In re UnitedHealth Group Inc. PSLRA Litig.*, Civ. Action No. 06-1691 JMR/FLN (PSLRA litigation).

claims discussed below. On July 14, 2006, the *Gordon* lawsuit was consolidated with another derivative case under the caption *In re UnitedHealth Group Inc. Derivative Litig.*, File No. 27 CV-06-8085 (State Derivative Actions). The State Derivative Actions are pending before the Honorable George F. McGunnigle. On August 14, 2006, plaintiffs in the State Derivative Actions filed a Consolidated Derivative Complaint (State Complaint) alleging various state law claims against twelve current and former UHG directors and/or officers. As with the Federal Derivative Actions, the State Derivative Actions were stayed in part by Judge McGunnigle pending completion of the SLC's investigation and publication of its Report.⁶

c. The Individual Defendants

The following individuals are named as defendants in one or both of the Derivative Actions:

i. Dr. William W. McGuire

Dr. McGuire received his M.D. from the University of Texas in 1974, and practiced pulmonary medicine for six years before becoming involved in the managed health care business. He joined the Company as Executive Vice President in November 1988, and became President and Chief Operating Officer in November 1989. In 1991, Dr. McGuire was appointed Chief Executive Officer and held that position until his departure from UHG in November 2006. Dr.

⁶ The Federal Derivative Actions and the State Derivative Actions are referred to collectively as the Derivative Actions.

McGuire was elected to the Board of Directors of the Company in February 1989, and served as Chair of the Board from May 1991 until October 15, 2006.

According to *Fortune* magazine, under Dr. McGuire's leadership, the Company's revenues grew from approximately \$600 million to more than \$70 billion, with an average annual return to shareholders of nearly 30 percent.⁷

ii. Stephen J. Hemsley

Mr. Hemsley was employed by Arthur Andersen LLP for over twenty years, beginning in 1974. At Arthur Andersen LLP, Mr. Hemsley served in various capacities including Chief Financial Officer. He joined UHG in 1997 as Senior Executive Vice President, was named Chief Operating Officer in 1998 and President in May 1999. Mr. Hemsley has been a member of UHG's Board of Directors since February 2000 and since November 2006 has served as UHG's Chief Executive Officer.

iii. David J. Lubben

Before joining the Company, Mr. Lubben was in private practice in Minneapolis and represented the Company. He became UHG's General Counsel and Secretary in October 1996 and held those offices until October 15, 2006, shortly before he retired from the Company.

iv. David P. Koppe and Arnold H. Kaplan

Mr. Koppe joined the Company in 1983 and served as the Company's Chief Financial Officer from December 1994 until July 1998, and left

⁷ Peter Elkind, *UnitedHealth and the Ghost of Dr. McGuire*, *Fortune*, Apr. 17, 2007.

the Company shortly thereafter. Mr. Kaplan served as the Company's Chief Financial Officer from July 1998 until he left the Company in 2001.

v. **Jeannine M. Rivet, Thomas P. McDonough,
Robert J. Sheehy, R. Channing Wheeler and
Travers H. Wills**

Ms. Rivet and Messrs. McDonough, Sheehy, Wheeler and Wills have served as the heads of various UHG business units. None has ever served on the Company's Board of Directors.

Ms. Rivet joined UHG in 1990. She was named Chief Executive Officer of United Healthcare in April 1998 and Chief Executive Officer of Ingenix in January 2001. She currently is an Executive Vice President of UHG.

Mr. McDonough joined UHG in July 1995 as a Senior Vice President. He served as Chief Executive Officer of Uniprise from late 1997 until March 31, 1998, when he left the Company.

Mr. Sheehy joined UHG in February 1992 and served as Chief Executive Officer of United Healthcare of Ohio from 1994 until 1998. He became President of United Healthcare in 1998 and Chief Executive Officer in January 2001. He currently is an Executive Vice President of UHG.

Mr. Wheeler joined UHG in March 1995 as Senior Vice President of Strategic Business Services, later renamed Uniprise. In 1998, he became Chief Executive Officer of that business unit and remained in that position until 2004 when he assumed new responsibilities. He left the Company in 2005.

Mr. Wills joined UHG in October 1992 as a Senior Vice President of specialty operations. He served as Chief Executive Officer of United Healthcare's Health Plans business unit beginning in November 1997. He retired from the Company on January 1, 1999.

vi. **Richard T. Burke, James A. Johnson,
Douglas W. Leatherdale, Donna E. Shalala
and Gail R. Wilensky**

Messrs. Burke, Johnson and Leatherdale, and Drs. Shalala and Wilensky are present or former outside directors of UHG. None was a member of the Ad Hoc Committee of the Board that was charged with negotiating new employment agreements for Dr. McGuire and Mr. Hemsley in 1999 (1999 Ad Hoc Committee). These five directors served on the Compensation Committee at various times but none was a member of the Committee during the years 1995 through 2002.

Mr. Burke founded the company that later became UHG in 1974. He has served on the Board since its inception in January 1977 and was United Healthcare's Chief Executive Officer until February 1988. He is presently the Non-Executive Chair of the Board. From 1995 until February 2001, Mr. Burke was the owner, Chief Executive Officer and Governor of the Phoenix Coyotes, a National Hockey League team. Mr. Burke is also a director of First Cash Financial Services, Inc. and Meritage Homes Corporation.

Mr. Johnson has served on the UHG Board from 1993 to the present. He became a member of the Compensation Committee in 2003, served as its Chair

for several years, and went off the Committee in May 2007. From 1991 until 1999, Mr. Johnson was at the Federal National Mortgage Association (Fannie Mae), serving in various capacities, including Chairman and Chief Executive Officer. He currently is Vice Chair of Perseus, L.L.C., a private merchant banking and investment firm.

Mr. Leatherdale has served on the UHG Board since 1983. He was a member of the Compensation Committee from December 1984 to February 1988, and has recently rejoined the Committee. Mr. Leatherdale was an executive with The St. Paul Companies, Inc., an insurance and financial corporation, holding various positions, including Chair of the Board and Chief Executive Officer, from 1990 until his retirement in 2001.

Dr. Shalala was elected to the UHG Board in May 2001. She did not seek re-election when her second term expired in May 2007. Dr. Shalala served as Chancellor of the University of Wisconsin from 1987 until 1993, at which time she was appointed Secretary of the U.S. Department of Health and Human Services, a position she held for eight years. She currently is the President of the University of Miami.

Dr. Wilensky was elected to the UHG Board in May 1993. She became a member of the Compensation Committee in May 2006 and currently serves as its Chair. From 1990 to 1992, Dr. Wilensky was Administrator of Health Care Financing Administration at the U.S. Department of Health and Human Services responsible for directing the Medicaid and Medicare programs.

From 1992 to 1993, she served as Deputy Assistant to President George H. W. Bush, advising on policy issues. Since 1993, Dr. Wilensky has served on several boards and commissions including as Co-Chair of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, and as a Senior Fellow at Project HOPE, an international health education foundation.

vii. William C. Ballard, Jr., Thomas H. Kean, Mary O. Munding, Robert L. Ryan and William G. Spears

Messrs. Ballard, Ryan and Spears, Governor Kean and Dr. Munding are present and former outside directors who served on the Compensation Committee for various periods of time between 1994 and 2002 and thereafter. All were also members of the 1999 Ad Hoc Committee.

Mr. Ballard was elected to the UHG Board of Directors in 1993, and continues to serve on the Board today. He was a member of the Compensation Committee from February 1993 to May 1999, and was also a member of the 1999 Ad Hoc Committee. Mr. Ballard served as Chief Financial Officer and Director of Humana Inc. until he retired from that company in 1992. Since his retirement, Mr. Ballard has been of counsel to Greenebaum, Doll & McDonald PLLC, a law firm in Louisville, Kentucky.

Governor Kean has served on the UHG Board since August 1993. He was a member of the Compensation Committee from February 1994 through May 2003, and again from November 2006 through May 2007. Governor Kean was also a member of the 1999 Ad Hoc Committee. He served as Governor of the

State of New Jersey from 1982 to 1990 and as President of Drew University from 1990 until 2005. Governor Kean also chaired the 9/11 Commission from 2002 to 2004 and currently serves as Chair of THK Consulting, Inc., a private consulting firm, and on the Board of Trustees of the Robert Wood Johnson Foundation.

In 1997, Dr. Mundinger joined the UHG Board and became a member of the Compensation Committee. She left the Committee in 2006. She was also a member of the 1999 Ad Hoc Committee. Since 1982, Dr. Mundinger has been affiliated with Columbia University in New York City, where she currently holds the titles of Dean and Centennial Professor of Health Policy at the School of Nursing and Vice President for Nursing at the Columbia University Medical Center.

Mr. Ryan has served on the UHG Board since July 1996. He was a member of the Compensation Committee from November 1996 until May 1999, and also served on the 1999 Ad Hoc Committee. From 1993, Mr. Ryan was employed by Medtronic, Inc., a medical technology company, as its Chief Financial Officer until his retirement in 2005.

Mr. Spears served as a director of UHG from the time of his election in February 1991 until his resignation in October 2006. He was a member of the Compensation Committee from May 1991 until April 2006, serving as Chair from 1992 until May 2004. He was also Chair of the 1999 Ad Hoc Committee. In 1972, Mr. Spears founded Spears, Benzak, Salomon & Farrell, Inc., an investment counseling and management firm, which was acquired by KeyCorp. Asset

Management Holdings, Inc. in April 1995. Mr. Spears served as Chair of a subsidiary of KeyCorp for four years. In 1999, he formed the investment management firm Spears Grisanti & Brown LLC.

The causes of action alleged against each of the foregoing defendants are set forth in Appendix A to this Report (summary of claims).

C. The Appointment of the SLC

In April 2006, UHG received a letter from counsel representing a shareholder which demanded that the Company take legal action against certain present and former directors and/or officers in connection with the Company's past stock option grants. At board meetings held on May 1 and May 23, 2006, the Board considered the matter and took action to appoint a special litigation committee to which it would delegate the authority to investigate the bases of the derivative claims filed in the name of the Company, assess the Company's legal rights and remedies, and determine whether those rights or remedies should be pursued.

On June 26, 2006, the Board passed a formal resolution establishing the Special Litigation Committee as follows:

[To] designate . . . a special litigation committee of the Board (the "Special Litigation Committee") that has complete power and authority to investigate the Derivative Claim and the claims raised in the Derivative Actions and analyze the legal rights or remedies of the Company and determine whether those rights or remedies should be pursued.

6/26/06 UHG Board Resolution Related to Formation of the Special Litigation Committee.⁸ The Board appointed former Chief Justice of the Minnesota Supreme Court Kathleen A. Blatz and former Minnesota Supreme Court Justice Edward C. Stringer as the two members of the SLC.

D. The Members of the SLC

1. The Honorable Kathleen A. Blatz

The Honorable Kathleen A. Blatz graduated *summa cum laude*, Phi Beta Kappa, from the University of Notre Dame in 1976, and earned a masters degree in social work from the University of Minnesota in 1978. In 1984, Chief Justice Blatz received her J.D. *cum laude* from the University of Minnesota Law School.

In 1978, Chief Justice Blatz was elected to the first of eight terms in the Minnesota House of Representatives. While serving in the legislature, Chief Justice Blatz was an attorney in private practice at the law firm of Popham, Haik, Schnobrich & Kaufman Ltd., and later in the Hennepin County Attorney's Office.

In 1994, Chief Justice Blatz was appointed to the Hennepin County District Court, serving as a trial judge until 1996. In 1996, she was appointed Associate Justice of the Minnesota Supreme Court and she was appointed Chief Justice in 1998. Chief Justice Blatz retired from her position as Chief Justice on January 10, 2006.

⁸ The Board's resolution of June 26, 2006 is attached as Appendix B to this Report.

After leaving the Minnesota Supreme Court, Chief Justice Blatz was elected to the Board of the RiverSource Mutual Funds, and became a Jurist in Residence at the William Mitchell College of Law. She currently chairs the Board of Governors of the University of St. Thomas Law School.

2. The Honorable Edward C. Stringer

The Honorable Edward C. Stringer graduated *cum laude* from Amherst College in 1957 with a B.A. in American Studies. In 1960, Justice Stringer received his J.D. *cum laude* and Order of the Coif from the University of Minnesota Law School. Following law school, Justice Stringer was in private practice, first as an associate and then as a partner, with the law firm of Stringer, Donnelly & Sharood. From 1969 through 1980, Justice Stringer was a partner, shareholder and Member of the Board of Directors of the law firm of Briggs and Morgan.

From 1980 through 1989, Justice Stringer was General Counsel of the Pillsbury Company, where he held other offices as well, including Senior Vice President, Executive Vice President, Chief Administrative Officer and Secretary. In 1989, President George H. W. Bush appointed Justice Stringer as General Counsel to the United States Department of Education, a position he held until 1991. From 1992 to 1994, Justice Stringer served as Deputy Chief of Staff and then Chief of Staff for Minnesota Governor Arne Carlson.

In 1994, Justice Stringer was appointed to the Minnesota Supreme Court, where he served as an Associate Justice until his retirement in 2002. Since

leaving the Minnesota Supreme Court, Justice Stringer has engaged in arbitration, mediation and SLC work and has served in a variety of quasi-judicial capacities, including as Special Master in *In the Matter of Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota* (Ramsey County District Court CO-05-5928). Justice Stringer currently serves on the Board of Mairs and Power Mutual Funds.

E. Independence of the SLC

The Board of Directors of UHG sought to ensure the independence of the SLC by appointing two former justices of the Minnesota Supreme Court who had never served on the Company's Board. The members of the SLC confirmed that they did not have any material personal, professional, financial or familial ties with the Company, or with any of the named parties in the Derivative Actions.

F. Retention of Counsel and Consultants

Pursuant to the authorization of the Company's Board of Directors, the SLC retained independent counsel and other professionals to assist in its work.

1. Kelly & Berens, P.A.

In July 2006, the SLC retained Kelly & Berens, P.A. (Kelly & Berens) as its lead counsel to provide legal advice and assist the SLC with all phases of its work, including document collection and review, planning and administration of the SLC's investigation, preparation for and participation in all witness interviews, retention of various consultants, the potential resolution of

claims against certain defendants in the derivative actions, preparation of this Report, and various other matters.

Kelly & Berens focuses its practice on civil litigation, without limitation to any substantive area of law. It has substantial experience in securities, antitrust, commercial and employment litigation, as well as derivative actions and defending businesses in class action litigation. Incident to its practice, it has significant experience in corporate internal investigations, including witness interviews, and retrieval and collection of documents and electronic information. It also has substantial experience in the organization and use of litigation-oriented databases.

Barbara Berens of Kelly & Berens has had primary responsibility for this undertaking. Ms. Berens is a 1975 graduate of the University of Buffalo and a 1990 graduate of the University of Minnesota Law School, where she was a managing editor of the Minnesota Law Review. Following law school, Ms. Berens clerked for United States District Court Judge David S. Doty in the District of Minnesota and also served as Special Master in the NFL/NFLPA antitrust litigation. Ms. Berens has maintained an active practice in securities, business and commercial litigation.

Paul R. Hannah has also been heavily involved in the undertaking. Mr. Hannah received his undergraduate and J.D. degrees from Harvard. He served as law clerk to Senior Judge Charles J. Vogel of the United States Court of Appeals for the Eighth Circuit from 1972 to 1973. Since then, he has represented

a wide variety of clients in corporate governance, business and commercial litigation.

Kelly & Berens has had no material prior professional, personal, financial or familial relationship with UHG, with any of the named parties in the Derivative Actions, or with either member of the SLC.

2. Munger, Tolles & Olson LLP

The SLC also retained Munger, Tolles & Olson LLP (MTO) as counsel to assist with its investigation, with the potential resolution of claims against certain defendants in the Derivative Actions and with this Report. MTO has broad experience in conducting internal corporate investigations, and in counseling boards of directors and independent committees and special litigation committees of boards of directors. Specifically, MTO has extensive experience in representing companies, independent committees, and individual directors and officers in connection with allegations of stock option backdating.⁹

The lawyers at MTO with primary responsibility for this undertaking were John W. Spiegel and Lawrence C. Barth. Mr. Spiegel received his J.D. degree from the Yale Law School, where he was Editor-in-Chief of the Yale Law Journal. He served as law clerk to Justice Byron White of the Supreme Court of the United States during the Court's 1976-77 Term, and as Special Assistant to

⁹ MTO previously has served as counsel to a special litigation committee of another corporation regarding its stock option practices and derivative litigation arising therefrom; a special committee investigating stock option practices at another corporation; and another corporation dealing with the aftermath of revelations regarding stock option practices.

Deputy Secretary of State Warren Christopher from 1977 to 1979. From 1979 to 1982, he was an Assistant United States Attorney in Los Angeles. Mr. Barth received his J.D. degree from the Cardozo School of Law, where he was Articles Editor of the Cardozo Law Review. He served as law clerk to Judge Irving R. Kaufman of the United States Court of Appeals for the Second Circuit. Messrs. Spiegel and Barth have represented a wide variety of major corporations in securities, corporate governance and other complex litigation.

MTO has had no material prior professional, personal, financial or familial relationship with UHG, with any of the named parties in the Derivative Actions, or with either member of the SLC.

3. Other Professionals

The SLC engaged Professor Lyman P.Q. Johnson to advise and counsel it on various issues concerning corporate law and governance. Professor Johnson received his B.A., *magna cum laude*, from Carleton College and his J.D., *magna cum laude*, from the University of Minnesota Law School. Professor Johnson is currently the Robert O. Bentley Professor of Law at Washington and Lee University Law School, where he teaches courses in Corporation Law, Corporate Finance, Securities Regulation, Partnerships and Business Planning. Professor Johnson also has served as a Distinguished Scholar at the University of St. Thomas School of Law in Minneapolis. He has been retained as a consultant or expert witness on numerous corporate and securities law issues and his scholarship also focuses on this area of the law. Professor Johnson has had no